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AN OVERVIEW OF THE COUNTY IMPROVEMENT DISTRICT PROCESS

- **INTRODUCTION**

A county improvement district (“CID”) is generally the most realistic way for the residents of an area outside the limits of a city or town to construct, improve or maintain local roads or a local water or sewer system (or acquire an existing system). A CID can also be used to construct or improve other public facilities – street lights, sidewalks, fire hydrants, parks, recreational facilities, etc.

The CID will generally have a name that describes its intended purpose, such as “Pine Heights County Road Improvement District of Navajo County, Arizona.” The most common types are road improvement districts (which bring roads up to county standards so they can be accepted into the county maintenance system), road maintenance districts (which simply maintain roads without bringing them up to county standards), domestic water improvement districts (local water systems), and domestic wastewater improvement districts (local sewer systems). A CID can be formed for multiple purposes.

This is a general and simplified outline of the steps required to form a CID and complete a project. The statutes governing CIDs are found in Title 48, Chapter 6, of the Arizona Revised Statutes (A.R.S. §§ 48-901 to 48-1070). The statutes include detailed requirements for petitions and resolutions, the publishing of notices, etc. No attempt has been made in this outline to cover these details. Because the legislature amends the statutes from time to time, the current versions must always be consulted when a CID is formed or when an existing CID makes an improvement or acquisition.

Please note: There are many other types of “Title 48 special taxing districts” – special road districts, sanitary districts, fire districts and many others. Each has its own set of statutes. This outline covers only CIDs.

- **FORMATION OF THE DISTRICT**

- ◆ All of the land included in the CID generally must be in the unincorporated area of the county (meaning the area outside of the limits of an incorporated city or town).
 - The land doesn't all have to be contiguous (adjoining).
 - State land may be included with the consent of the state land commissioner.
 - A CID formed to make street, water, flood protection, or park or recreation improvements may include land within a city (or town) with the consent of the city council.
- ◆ The first step in forming a CID is a petition to the county board of supervisors.
 - The petition must be signed by a majority of the property owners (for example, 51 of 100 owners) or by the owners of 51% or more of the property (for example, 51 of 100 acres) within the proposed CID.
 - Each parcel is treated as though it only has one owner, even if there are several owners. This means that any one owner's signature is sufficient, unless the other owners object.
 - The petition must include a legal description of the boundaries of the CID. It must include only entire parcels to which the county assessor has assigned parcel numbers – parcels can't be split by the district boundaries.
 - The petition must also include a map or drawing showing the approximate area and boundaries of the proposed CID.
 - The petitioners must also post a bond to cover the county's expenses in case the CID isn't formed.
- ◆ After the petition is filed, the board of supervisors publishes a notice twice in the local newspaper and also mails the notice to all property owners within the proposed CID as shown on the most recent tax roll. (Undeliverable notices are given to the county recorder, who updates the ownership information for future notices.)
- ◆ The board of supervisors then holds a hearing on the petition within 40 days after the petition is filed.

- No hearing is required if the petition is signed by the owners of 100% of the property within the CID.
- ◆ At the hearing, the board of supervisors hears objections to the formation of the CID and either approves or disapproves it.
 - If it appears that some property won't benefit from being in the CID, the board may exclude it. If it appears that property not included in the CID will benefit, an additional notice and a second hearing may be required.
 - If there is a great deal of opposition, the board may refuse to form the CID or require a higher level of support (for example, 75% of the property owners or the owners of 75% of the property).
- ◆ After the board of supervisors approves or disapproves the formation of the CID, any "aggrieved party" (meaning anyone with an interest in the formation of the district) can file a suit in the superior court within 20 days to challenge the board's decision.
- ◆ Except for domestic water or wastewater improvement districts (called "DWIDs"), and districts formed to improve or maintain roads to less than county standards (called "RIMDs"), the board of supervisors serves as the board of directors of the CID.
 - A DWID or RIMD may have a locally elected board of directors (with at least 3 members). It is still a CID – the board of supervisors just isn't the board of directors.
 - Every CID is a separate "political subdivision" from the county. The county may charge the CID for services it provides to the district (financial, accounting, legal services, election services, etc.).
 - Most CIDs complete a particular project (such as paving the roads) and become inactive. For certain types of CIDs that require day-to-day administration, such as a road maintenance district or a recreation district, the board of supervisors may appoint a local advisory committee to handle the day-to-day operation of the district and make recommendations to the board.
- ◆ If the residents later want to add property to the CID or make other changes, they generally must follow the same steps outlined above for the creation of the CID.
 - However, an adjacent property owner can simply request to be added to the CID, with no petition or other formalities.

- Otherwise, a new petition is required. It must be signed by a majority of the owners in the area to be added, as well as by the owners of 51% of the assessed valuation of the property to be added. Note that these requirements are different from those for the petition to form the CID in the first place.

- **AUTHORIZING THE WORK**

- ◆ The petition to form the CID is generally combined with a “petition to incur expenses” describing the work that the district intends to do and authorizing the district to incur expenses for this purpose.
 - The petition to incur expenses doesn’t have to be included with the petition to form the CID, but it will have to be done later if it isn’t included with the petition to form the district.
 - The petition to incur expenses must be signed by the owners of a majority of the property fronting on the proposed work. If the work will benefit the entire district, the petition to incur expenses must be signed by the owners of a majority of the frontage within the entire district.
 - Thus, if the petition to form the CID and the petition to incur expenses are combined into one, it must be signed by both the majority of the owners or the owners of a majority of the property (required for formation) and the owners of a majority of the frontage (to incur expenses).
- ◆ An engineer appointed by the board of directors then prepares an estimate of the expenses for the work. If construction will be required, the engineer also prepares plans and specifications.
- ◆ The board of directors then passes a “resolution of intention” to do the work.
 - A notice describing the work and the passage of the resolution of intention is mailed to all property owners who will be assessed for the cost of the work.
 - A resolution of intention is required only if the work will be paid for by assessments against the parcels within the district (see the section below on paying for the work). If it will be paid for through grants, taxes or some other source, a resolution of intention isn’t required.

- ◆ After the notice is mailed, there is a 20-day protest period.
 - If the owners of a majority of the property within the CID (or a majority of the frontage, if this is how the work will be assessed) protest the work, this stops any further action for at least six months (unless the owners of a majority of the property “override” the protest with a petition for the work to be done).
 - In addition, any property owner may object that his parcel shouldn’t be assessed for the cost of the work because his parcel won’t benefit (or that other property should be included because it will benefit).
- ◆ When the 20-day protest period expires, the board of directors schedules a hearing on the protest (and any individual objections) within 30 days.
 - A notice of the hearing is published in the newspaper and is also mailed to each person who protested or objected.
- ◆ After the hearing, the board of directors passes a “resolution ordering the work.”
- ◆ A notice of the resolution ordering the work, together with an invitation for bids to do the work, is then published in the newspaper and is also posted at the place where the board meets.
 - For projects requiring construction, the district must also comply with the public bidding statutes in Title 34 of the Arizona Revised Statutes, which govern all public construction.
- ◆ The bids are then opened by the board of directors in a public meeting, and the contract is awarded to the responsible bidder who submits the lowest bid.
- ◆ A notice of the award of the contract is then published in the newspaper.
 - Within 15 days after the notice of award is published, any person having an interest in property within the CID may file with the board of directors a claim that the process was defective or illegal.
 - If such a claim is filed, the board of directors hears it. If the board rejects the claim, the contract to do the work is signed within 5 days.

- If no claim is filed, the contract is signed within 20 days after the notice is published (meaning within 5 days after the 15-day claim period expires).
- ◆ When the work is substantially complete, the “superintendent of streets” (generally meaning the county employee designated by the board to perform these duties) records a certificate of completion and mails a notice to each property owner.
 - Any owner or other person with an interest in the property has one year after the certificate of completion is recorded to file a claim with the board of directors on the basis that the work or acquisition didn’t comply with the resolution of intention, the estimate of expenses or the plans and specifications.
- If such a claim is filed, the board holds a hearing and may allow a reasonable time for any problems to be corrected.

• **PAYING FOR THE WORK**

- ◆ The CID typically pays for a major improvement or acquisition by selling assessment bonds, using the proceeds from the sale of the bonds to pay the contractor (or make the acquisition), and assessing the property within the district in order to pay off the bonds and other expenses.
- ◆ The amount of the assessment can be estimated early in the process on the basis of the engineer’s cost estimate and the current conditions in the bond market.
 - The amount that each parcel within the district will be assessed is based on how much it will benefit from the work. There are a variety of different ways that the benefits can be determined, depending on the type of work to be done and the type of parcels within the district.
 - After the contract has been awarded, the assessment is recorded in the office of the superintendent of streets. A notice of the assessment is generally recorded with the county recorder as well.
 - When the assessment is recorded, each parcel’s respective portion of the assessment becomes a first-priority lien against the parcel.

- After the assessment has been recorded,, the board of directors waits at least 20 days and then holds a hearing on the assessment.
 - A notice of the hearing is published in the newspaper and is also mailed to each property owner affected by the assessment.
 - Anyone who objects to the legality of the assessment or the legality of any other aspect of the process may file a written objection before the hearing.
 - At the hearing, the board rules upon all objections and may require the assessment to be revised if it finds that the original assessment wasn't fairly apportioned among the parcels within the district.
- The owners of each parcel have 40 days after the assessment is recorded to pay their portion in cash (i.e., in full rather than in installments).
 - After the 40-day period expires, property owners generally can no longer pay in cash and must pay in installments on June 1 and December 1 of each year until their portion of the assessment is paid in full. The number of installments is tied to the number of years for the repayment of the bonds – this is typically ten years or less, but it could be much longer for a major project.
- If a property owner fails to pay an installment when due, a 5% penalty is added.
- If the delinquent installment, 5% penalty and other costs aren't paid, the entire assessment amount may be "accelerated" and the delinquent parcel may be sold in whole or part at a public auction.
 - After the sale, the property owner or anyone else with an interest in the parcel may "redeem" the parcel before a deed is delivered to the person who bought the parcel at the sale. Interest on the amount paid by the purchaser is payable at the rate of 5% to 20% (depending on how soon after the sale the redemption is made).
 - If no redemption is made within 13 months after the sale, the person who bought the parcel is entitled to a deed from the district. When a deed is issued, the foreclosure process is complete and the purchaser owns the parcel.
- This is one of the key points to understand about CIDs: Because the approval of 100% of the property owners isn't required to form

a CID, some people who strongly object to the formation may find themselves included in the district against their will. If they don't pay their assessment installments, they can lose their property – just as if they didn't pay their property taxes.

- **LEVYING TAXES**

- ◆ The CID can also levy property taxes to meet its needs as set forth in the annual budget adopted by the board of directors.
- ◆ The statutes limit the purposes for which tax revenues may be used. Specifically, they may be used to pay the “general obligations” of the CID.
 - General obligations include the expenses of operating, maintaining and repairing improvements; the purchase price of parcels that the district is required to buy because no one bids on them at a delinquency sale; and the repayment of loans that the district is authorized to enter into.
 - For example, a CID formed solely to maintain roads in their present condition could choose to pay for its operations through taxes, because operating and maintenance expenses are general obligations.
 - Taxes can also be used to pay the costs of making an improvement or acquisition if these costs are specifically identified as general obligations of the district in the resolution of intention and the construction contract or purchase contract.

Remember, the above outline is only a general summary of some very complicated statutes. The statutes in Title 48, Chapter 6 are very detailed and cover situations not discussed in the above outline.